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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

REPLY COMMENTS OF FREEDOM COMMUNICATIONS, INC. ON THE
SIXTH FURTHER NOTICE OF PROPOSED RULEMAKING

Freedom Communications, Inc. (Freedom) submits these reply comments in response to the Commission's *Sixth Further Notice of Proposed Rulemaking* in the above-referenced proceeding.¹

Freedom continues to support the Commission's efforts to make DTV a reality and agrees with many of the commenter's proposals that would facilitate the fair and efficient implementation of DTV. In order to foster a competitive DTV marketplace, Freedom strongly urges the Commission to use the new DTV allotment table to rectify certain inequities in the current NTSC channel allotment scheme. As it previously has indicated, Freedom believes that the Commission's currently proposed DTV allotment table would provide sufficient flexibility to redress such inequities. Any alternate table that is adopted similarly should accommodate the unique circumstances that exist with respect to WLNE-TV in the Providence-New Bedford market.

¹ *Sixth Further Notice of Proposed Rulemaking*, MM Docket No. 87-268, FCC 96-317 (Rel. Aug. 14, 1996) (*Sixth Further Notice*).

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As set forth more fully in Freedom's comments,² WLNE-TV, Freedom's Channel 6 station in the Providence-New Bedford market, historically has been disadvantaged because of its existing transmitter site at Tiverton, Rhode Island. Located about 20 miles from the antenna farm where virtually all other stations in the Providence-New Bedford market are located, WLNE-TV currently cannot provide a comparable over-the-air signal to those of the other network stations in that market. The Commission's proposal, which would assign DTV Channel 49 to WLNE-TV, appears to provide the flexibility needed to allow WLNE-TV to relocate its transmitter site to the Rehoboth antenna farm without causing increased interference to other stations. In doing so, the Commission's proposed table appears to go a long way toward resolving a serious competitive problem that WLNE-TV has endured for more than 30 years.³

The comments submitted in this proceeding confirm that Freedom's situation with WLNE-TV is unique. Of the approximately 250 comments submitted in this proceeding, *only two* of the commenters raise a concern similar to the one expressed by Freedom with respect to WLNE-TV.⁴ Golden Orange Broadcasting Co. (Golden Orange) and Fouce Amusement Enterprises (Fouce), both serving the Anaheim, Orange County, California market, note that they are similarly disadvantaged by their existing transmitter sites and request accommodation in the DTV allotment table to permit relocation of their facilities to the antenna farm where most of their competitors are located. Like Freedom, Golden Orange notes that, under the Commission's

² Comments of Freedom Communications, Inc. (filed Nov. 22, 1996).

³ Any changes to this proposed table, of course, may eliminate the flexibility for Freedom to move its tower in this manner.

⁴ See Comments of Golden Orange Broadcasting Co., Inc. (filed Nov. 22, 1996); Comments of Fouce Amusement Enterprises (filed Nov. 22, 1996).

proposed DTV allotment table, it could make such a move without causing increased interference to other stations.⁵ Thus, these limited circumstances provide good cause for evaluating certain DTV allotments on the basis of sites other than those occupied by existing TV stations.⁶

In general, Freedom also supports the Broadcasters' Caucus request for flexibility in obtaining Commission approval to modify DTV transmitter site locations. Under the Broadcasters' Caucus proposal, the Commission would approve any proposed change to the DTV table that does not cause "unaccepted additional interference" to assigned NTSC or DTV stations.⁷ Freedom requests, however, that, if the Commission adopts a similar approach, it should clarify the standard to be applied in determining "unaccepted additional interference" for purposes of approving transmitter site modifications.

As the Commission is well aware, under any DTV allotment plan, virtually every TV station will experience some level of interference from adjacent stations. This is simply the result of having to provide every existing station two channels of limited spectrum during the NTSC-DTV transition period. Likewise, virtually any proposed modifications of the table will also generate some level of interference to nearby stations. Both the Commission and the Broadcasters' Caucus have recognized the inevitability that many stations will want to modify their allotments in order to improve their ability to provide competitive DTV service. But absent the adoption of a realistic definition of "unaccepted additional interference," the Broadcasters' Caucus proposal to "wait and see" whether proposed modifications to the table can be

⁵ Fouce's comments do not address the merits of the DTV channels proposed either by the Commission or the Broadcasters' Caucus.

⁶ See *Sixth Further Notice*, MM Docket No. 87-268 at ¶ 56.

⁷ Broadcasters' Caucus Comments at 50 (filed Nov. 22, 1996).

accommodated will be meaningless. As long as a potentially affected adjacent station can complain about *any* changes to the plan that alter its interference situation in *any matter* whatsoever, it will have no incentive to engage in any negotiations with respect to the proposed modification.⁸

Thus, it is imperative that the Commission clearly define at the outset how it will determine whether a proposed modification to the DTV table will cause unacceptable interference. Specifically, Freedom requests that the Commission approve such modifications to the extent that the net effect of any such modification would result in a decrease in interference to stations in the surrounding area. For example, an increase in interference to Station X could be offset by a successful reduction in interference to Stations Y and Z. In addition, if Station A already is predicted to receive a certain level of interference from Station B, Station A should have no grounds to complain if Station B proposes a modification where the same (or lesser) level of interference would occur in a different geographic area within Station A's protected contour. Moreover, the Commission should clarify that DTV allocation modifications would be permitted to the extent that any new interference or increase in interference to other stations would be *de minimus*.⁹ Finally, stations should be permitted to employ engineering solutions (e.g. directional antennas) to minimize any potential increase in interference caused by DTV allocation modifications. Such flexibility and clarification regarding DTV allocation modifications is critical to accommodate the practical realities in moving to the DTV

⁸ The Broadcasters' Caucus has proposed utilizing an industry coordinating committee to evaluate and accommodate proposed channel and facility changes. *See* Broadcasters' Caucus Comments at 53-59.

⁹ For example, UHF taboo interference areas can often be very small "islands" of interference of less than one km in radius.

marketplace. Absent the adoption of these types of means for quantifying unacceptable interference, the new DTV Table will afford no flexibility during the DTV transition phase.

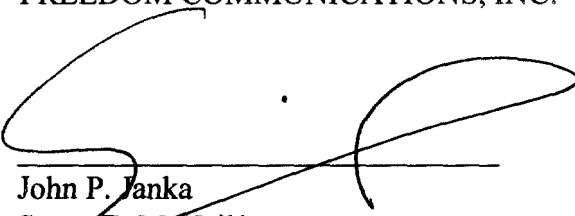
As the Commission has recognized, the transition to DTV will be costly, particularly for stations that are forced to relocate twice in the move to their permanent DTV channel. Freedom already has commented that certain lower VHF channels (*i.e.* stations providing service on Channels 2-6) would bear a disproportionate burden of the costs associated with the implementation of DTV, compared with their market competitors who will be able to return to their “upper” VHF channels at the end of the DTV transition. Freedom therefore has urged the Commission to retain Channels 2-6 for DTV service. It would be fundamentally unfair to require stations such as WLNE-TV to endure the costs of a double channel move without at least accommodating the type of transmitter site relocation requests proposed by WLNE-TV and thereby providing certainty that the historical inequities in the current NTSC allotment table will be rectified.

For the reasons set forth above, Freedom believes that a reasonable solution to the current WLNE-TV transmitter site problem could be accommodated under the Commission's currently proposed DTV allotment table. Freedom therefore urges the Commission to incorporate this type of flexibility in WLNE-TV's channel allotment as it implements a final allotment table for DTV.

Respectfully submitted,

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